

**INLAND WETLANDS AGENCY
MEETING MINUTES**

DECEMBER 20, 2004

PRESENT: Ken Braga, Kim Flannery, Margo Wheeler, Adam Barber, and Alternates Christine Murphy and Donald McConnell (arr. 7:37 PM)

ABSENT: James Maitland, Sanford Cohen and Alternate Jean Burns

STAFF

PRESENT: Matt Davis, Town Planner, Richard Kalva, ZEO and Reanna Goodreau, Recording Secretary

I. CALL TO ORDER:

Chairman Braga called the Inland Wetlands Agency (IWA) meeting to order at 7:31 PM at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT and read the Legal Notice into the record.

II. PUBLIC COMMENTS: NONE

III. PUBLIC HEARINGS:

1. #IW200440 – Valley Farms for a wetland delineation map amendment on property located at West Road, APN 037-003-0000. (Continued from the November 15, 2004 meeting)

TIME: 7:35 PM

SEATED: K. Braga, K. Flannery, M. Wheeler, A. Barber, and C. Murphy

Chairman Braga read a letter from Mr. Moser granting an extension to continue the public hearing to the January meeting.

BY CONSENSUS, THE AGENCY ACCEPTED THE APPLICANT'S REQUEST FOR AN EXTENSION TO CONTINUE THE PUBLIC HEARING TO THE JANUARY 24, 2005 MEETING.

2. #IW200438 – Richard Montovani for a Permit to Conduct Regulated Activity within an Area of Influence for demolishing existing house and constructing new single family home on property located at 6 Lake Lane, APN 149-057-0000.

TIME: 7:36

SEATED: K. Braga, K. Flannery, M. Wheeler, A. Barber, C. Murphy and D. McConnell

Richard Montovani came forward to explain his application. Mr. Montovani explained that the existing home is a cottage on cement piers with a partial foundation and is not structurally sound to put on a

second floor addition. He stated that he is looking to construct a new home on the existing footprint, but will be digging a foundation.

Matt Davis asked if the deck was existing and was told that it was and it will remain. He also asked if the finished grades would be the same and was told yes. Mr. Davis asked where the curtain drain would be directed and the applicant stated that it would go to a dry well.

Chairman Braga asked if there would be erosion control measures installed on site and was told that he would install silt fence between the construction and the lake. Chairman Braga stated that he would like the have the dry well location and silt fence shown on the plan.

MOVED (BARBER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #IW200438 – RICHARD MONTOVANI.

MOVED (WHEELER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITION #IW200438 – RICHARD MONTOVANI.

CONDITION: APPLICANT MUST SUBMIT PLAN SHOWING LOCATION OF DRY WELL & EROSION CONTROL MEASURES TO THE TOWN PLANNER PRIOR TO ISSUANCE OF THE INLAND WETLANDS AGENCY'S APPROVAL LETTER AND PERMIT BEING ISSUED.

3. #IW200441 – Great Country Garages for a Permit to Conduct Regulated Activity within an Area of Influence for a commercial development on property located on West Road, APN 037-002-0000.

TIME: 7:43 PM

SEATED: K. Braga, K. Flannery, M. Wheeler, A. Barber, C. Murphy and D. McConnell

Chairman Braga read a letter from the Town Engineer.

Tim Coon, J.R. Russo & Associates, presented the application. He explained that the applicant purchased land to the west of the parcel that they received approval for retail sales with display and storage. He explained that in conjunction with their proposal of constructing a building for fabrication of garages and storage of materials, the original approval would be modified to widen the entrance, widen the circle and enlarge the detention basin. Mr. Coon noted that the direct impacts to the wetlands includes filling of 3,300 square feet of Connecticut wetlands and 4,800 square feet of federal wetlands, but explained that these wetlands have been disturbed by farming. He noted that there would be 23,379 square feet of wetlands restoration and 9,186 square feet of wetlands creation along Belding Brook.

Chairman Braga read from the soil scientist's report and the Town Engineer's letter dated 12/20/04. He noted that the restoration is almost 3:1. He expressed his desire for the applicant to follow the soil scientist's guidelines for the restoration and creation.

Michael Granolotti, Soil Scientist, explained that the proposed area of restoration was used in the past for a staging area for sewer installation and that currently is used for farming. He reviewed his recommendations for plantings and the reasoning for doing the particular plantings and sequencing.

MOVED (WHEELER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #IW200441 – GREAT COUNTRY GARAGES.

MOVED (WHEELER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITION #IW200441 – GREAT COUNTRY GARAGES.

CONDITION: APPLICANT MUST ADHERE TO ALL REQUIREMENTS OF THE SOIL SCIENTIST'S REPORT DATED DECEMBER 7, 2004 AND MUST ADHERE TO THE TOWN ENGINEER'S REQUIREMENTS IN HIS LETTER DATED DECEMBER 20, 2004.

4. #IW200442 – Genovesi Builders for a Permit to Conduct Regulated Activity within an Area of Influence for a residential dwelling on property located at 3 Azalea Lane, APN 129-088-0056.

TIME: 8:02 PM

SEATED: K. Braga, K. Flannery, M. Wheeler, A. Barber, C. Murphy and D. McConnell

Russ Heintz, Tarbell & Heintz, came forward to explain the application. He presented a map of the approved subdivision, which did not show any encroachment into the regulated area. He also presented a map showing the proposal, which shows the house and lawn area encroaching into the regulated area. He noted that there would be no activity in the conservation easement and that the easement is marked with town placards. Mr. Heintz noted that the original plan showed a small box for a home pushed against the property line. The applicant's prospective buyer is looking to construct a certain home and therefore, would like to have approval for activity within the regulated area.

Chairman Braga stated that he took issue with applicants getting an approval and then coming back to modify their approval. Matt Davis suggested that the agency could request a modification of the conservation easement to include additional land in the "neck" of the existing easement. Increasing the easement to offset the impacts seemed to present a reasonable compromise.

MOVED (MCCONNELL), SECONDED (BARBER) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #IW200442 – GENOVESI BUILDERS

MOVED (WHEELER), SECONDED (MURPHY) AND PASSED UNANIMOUSLY TO APPROVE WITH MODIFICATION & CONDITION #IW200442 – GENOVESI BUILDERS.

MODIFICATION: THE FINAL PLAN SHALL BE REVISED TO SHOW THAT THE EXISTING CONSERVATION EASEMENT AREA WILL BE INCREASED TO INCLUDE ADDITIONAL LAND FROM THE SUBJECT PROPERTY IN ACCORDANCE WITH THE HEARING EXHIBIT DATED DECEMBER 20, 2004.

CONDITION: REVISED APPROVED & EXTENDED CONSERVATION EASEMENT TO BE PROVIDED & RECORDED ON THE LAND RECORDS PRIOR TO ISSUANCE OF THE INLAND WETLANDS PERMIT. FIELD DELINEATION OF CONSERVATION EASEMENT VIA STANDARD MARKERS TO BE COMPLETED, INSPECTED & APPROVED BY THE ZEO/IW AGENT PRIOR TO ISSUANCE OF A ZONING PERMIT FOR SITE WORK OR HOME CONSTRUCTION.

5. #IW200444 - Dzen Brothers, Inc. for a Permit to Conduct Regulated Activity within an Area of Influence for drainage facilities in conjunction with the proposed expansion of an existing retail facility on property located at 187 Windsorville Road & 8 Pinney Street, APN 009-041-0000, 009-042-0000.

TIME: 8:17 PM

SEATED: K. Braga, K. Flannery, M. Wheeler, A. Barber, C. Murphy and D. McConnell

Chairman Braga read a letter from the Town Engineer and a letter from the North Central District Health Department. Matt Davis explained that the applicant applied to the Planning & Zoning Commission, but after the Town Engineer reviewed the plan, he required changes in the drainage. Since the changes impact an intermittent watercourse, the applicant needed to apply to the Inland Wetlands Agency.

Galen Semperbon, Design Professional, Inc., handed out a revised plan noting that the only change is the certification by John Ianni, Soil Scientist, as to the location of regulated areas. He stated that the applicant is looking to construct 9,600 square feet of greenhouses to the north of the Dzen Garden Market building. He noted that although there are no inland wetlands or watercourses on site or within 100', the drainage will outlet to a culvert that empties to an intermittent watercourse. Mr. Semperbon explained the details of the detention basin.

MOVED (MCCONNELL), SECONDED (WHEELER) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #IW200444 – DZEN BROTHERS, INC.

ACTION TO BE TAKEN AT THE JANUARY 24, 2005 MEETING.

IV. UNFINISHED BUSINESS:

1. Status Report Regarding Cease and Desist ORDER, Daniel Shustock for violations at #379 Somers Road (APN #122-008-0002).

Matt Davis explained that last month's agenda packet included a letter from the Town Attorney explaining the method of pursuing the enforcement of the Cease & Desist Order. He stated that she would pursue this as a civil action on behalf of the Inland Wetlands Agency, asking for the court to impose fines.

MOVED (WHEELER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO HAVE THE TOWN ATTORNEY MOVE FORWARD WITH THE CIVIL ACTION AGAINST DANIEL SHUSTOCK FOR INLAND WETLANDS VIOLATIONS ON PROPERTY LOCATED AT 379 SOMERS ROAD, APN 122-008-0002.

2. Hearing Regarding Cease and Desist ORDER, dated September 11, 2004 issued to Brian Kocher for violations at #24 Ludwig Road (APN #109-006-0000). (Show Cause continued from the November 15, 2004 meeting)

Matt Davis stated that Mr. Kocher did most of what he was required to do. He and Rick will continue to monitor the site. Mr. Davis suggested that the commission uphold the order and close the show cause hearing.

MOVED (WHEELER), SECONDED (MURPHY) AND PASSED UNANIMOUSLY TO UPHOLD THE CEASE & DESIST ORDER AND CLOSE THE SHOW CAUSE HEARING FOR BRIAN KOCHER.

3. Discussion—Status of Wetland Violation Resolution, Bruce Luginbuhl, 34 Ludwig Road.

Matt Davis explained that he, Rick Kalva, and Jim Thompson had visited the site last week and that Mr. Luginbuhl is almost finished with the corrective work. He explained that he just received the as-built today and that it would be forwarded to the Town Engineer for his review. Mr. Davis noted that the conservation easement document and survey have not been provided nor has the installation of the conservation easement placards been completed. He noted that the commission should keep some of the bond to ensure final stabilization is achieved in the spring.

V. NEW BUSINESS:

1. Preliminary Review: Newell Hill Road Subdivision.

Matt Davis explained that a developer is planning a fairly large subdivision on Newell Hill Road and is looking for guidance from the agency since it is located in the Shenipsit Lake drainage basin. He told the engineer that in the past the agency has not typically held preliminary meetings. Chairman Braga noted it may be helpful to both parties if a preliminary meeting was held.

BY CONSENSUS, THE AGENCY AGREED TO CONDUCT A PRELIMINARY REVIEW OF THE PROPOSED NEWELL HILL ROAD SUBDIVISION & REQUESTED THAT IT BE PLACED ON FOR THE JANUARY 24, 2005 MEETING.

2. #IW200254 - Request for extension to begin work for a deck at 142 Crystal Lake Road.

Reanna Goodreau explained that the owner applied for a zoning permit after receiving wetlands approval, but did not receive health department approval. The health department required that the owner install a new septic system and therefore, the owner is only now getting to construct the deck.

MOVED (WHEELER), SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO GRANT A ONE-YEAR EXTENSION TO BEGIN WORK ON A DECK AT PROPERTY LOCATED AT 142 CRYSTAL LAKE ROAD.

3. #IW200443 – Douglas & Cathy Pinard for a Permit to Conduct Regulated Activity within an Area of Influence to construct a 38' x 30' garage and 10' x 30' lean to on property located at 65 Sandy Beach Road, APN 151-005-0001. (RECEIPT AND POSSIBLE DETERMINATION OF SIGNIFICANCE)

Reanna Goodreau explained that the owner had approval for a new home with a detached garage in 1996, but when the owner built the house, the garage was not constructed. She stated that the property is in the Shenipsit Lake drainage basin, and anywhere the garage is placed would be under the agency's jurisdiction. Mrs. Goodreau noted that a lean-to was added, the location was slightly changed, and that the size may have been increased.

BY CONSENSUS, THE AGENCY AGREED THAT THIS APPLICATION WAS NOT A SIGNIFICANT ACTIVITY & REQUESTED THAT IT BE PLACED ON FOR THE JANUARY 24, 2005 MEETING UNDER UNFINISHED BUSINESS.

4. #IW200446 – Naek Construction for a Permit to Conduct Regulated Activity within an Area of Influence to clear and fill in 100' regulated area on property located at 26 Birch View Drive, APN 119-004-0015. (RECEIPT AND POSSIBLE DETERMINATION OF SIGNIFICANCE)

Russ Heintz, Tarbell & Heintz, showed a map of the original approval and the proposal. He noted that there was slight encroachment into the regulated area with the original approval, but with the new proposal, the driveway and lawn area in the regulated area has increased. Mr. Heintz explained that the homeowner is looking to put a larger home, with a circular driveway. He noted that most of the drainage does not flow towards the wetlands and that he tried to keep the grading as close to the home as possible.

BY CONSENSUS, THE AGENCY AGREED THAT THIS APPLICATION WAS NOT A SIGNIFICANT ACTIVITY & REQUESTED THAT IT BE PLACED ON FOR THE JANUARY 24, 2005 MEETING UNDER UNFINISHED BUSINESS.

5. #IW200447 – Richard & Donna Napolitano, Notification of proposed conversion of wooded upland review area to lawn on property located at 133 Sandy Beach Road, APN 130-011-0001.

Matt Davis explained that the applicant is looking to clear a section of brush from their land in order to create a lawn area. He noted that the work is within the regulated area, but there are no conservation easements and no wetlands permit was required to construct the home since no work associated with building the home was within the regulated area. Mr. Davis explained that when he reviewed the regulations he saw this as a notification, not something that would require a permit.

BY CONSENSUS, THE AGENCY ACCEPTED THE NOTIFICATION.

6. #IW200445 – The Ellington Acres Water Company, Notification of proposal to construct two 8' x 8' x 8' concrete block structures over wells and install drainage for artesian wells on property located at Egypt Road, APN 161-069-0000.

Matt Davis explained that the water company is not required to obtain a wetlands permit, but they do need to notify the agency. He stated that the water company is constructing well houses.

BY CONSENSUS, THE AGENCY ACCEPTED THE NOTIFICATION.

7. #IW200448 – Michael Duprey for a Permit to Conduct Regulated Activity within an Area of Influence for an addition and deck on property located at 25 Brockway Road, APN 102-026-0001. (RECEIPT ONLY)

BY CONSENSUS, THE AGENCY RECEIVED APPLICATION #IW200448.

MOVED (WHEELER), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO ADD TO THE AGENDA A DISCUSSION OF THE KEMENT GRAVEL PIT.

8. Discussion of Kement Gravel Pit

Matt Davis explained that the DEP referred a complaint to them regarding a stream being moved on the Kement property on Broad Brook Road. He stated that he and Rick Kalva did a site inspection and found that there appeared to be work within wetlands/watercourse. Mr. Davis explained that there was a wetlands permit approved in 2001 associated with an earth excavation permit for "reclamation"; however, the plan did not show all the wetlands. Mr. Kalva would send a letter requesting that a soil scientist delineate the wetlands and that all work on site cease. Chairman Braga requested that a timeframe to have the information to the agency be included in the letter.

BY CONSENSUS, THE AGENCY REQUESTED THAT THE ZONING ENFORCEMENT OFFICER SEND A LETTER REQUESTING THAT MR. KEMENT PROVIDE A PLAN PREPARED BY A SOIL SCIENTIST SO THAT THE COMMISSION CAN PROPERLY EVALUATE COMPLIANCE WITH RESPECT TO CURRENT SITE ACTIVITY.

VI. ADMINISTRATIVE BUSINESS:

1. Election of Officers for 2005.

MOVED (WHEELER) SECONDED (FLANNERY) AND PASSED UNANIMOUSLY TO ELECT KEN BRAGA AS CHAIRMAN FOR THE 2005 CALENDAR YEAR.

MOVED (FLANNERY) SECONDED (BARBER) AND PASSED (NAY: WHEELER) TO ELECT MARGO WHEELER AS VICE CHAIRMAN FOR THE 2005 CALENDAR YEAR.

2. Discussion: Scheduling a special meeting for Inland Wetlands Regulation Amendments.

Matt Davis explained that the regulations must be sent to the DEP, although they will not comment on them. He stated that a hearing would be scheduled after the mandatory referral to the DEP.

BY CONSENSUS, THE COMMISSION AGREED TO HOLD A SPECIAL MEETING (HEARING) AS SOON AS NOTIFICATION REQUIREMENTS ALLOW.

3. Approval of the November 15, 2004 meeting minutes.

MOVED (WHEELER), SECONDED (BARBER) AND PASSED UNANIMOUSLY TO APPROVE THE NOVEMBER 15, 2004 MEETING MINUTES.

4. Correspondence:
 - a. Letter to Ben Moser from Matt Davis dated 11/29/04.
 - b. The Municipal Advisor, November Addition.
 - c. E-mail to Matt Davis from Judy Preston dated, 12/8/04.
 - d. Connecticut Wildlife, November/December 2004.

RECEIPT NOTED.

VII. ADJOURNMENT:

MOVED (WHEELER), SECONDED (MURPHY) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING AT 8:50 P.M.

Respectfully Submitted,

Reanna Goodreau
Recording Secretary